

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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DUNKIN' DONUTS FRANCHISED	:	:
RESTAURANTS LLC, <i>et al.</i> ,	:	:
	:	:
Plaintiffs,	:	:
v.	:	Case No. 08-CV-00217 (RWS)
	:	:
INNER CITY DOUGH, INC., <i>et al.</i> ,	:	:
	:	:
Defendants.	:	:
-----X		:

PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiffs Dunkin' Donuts Franchised Restaurants LLC, *et al.* hereby move for a preliminary injunction against all Defendants enjoining them from continuing to use Plaintiffs' trademarks, trade names and trade dress. Plaintiffs recently terminated Defendants' Franchise Agreements for various breaches, including fraud, unauthorized transfer of interest, and nonpayment of fees. Despite receiving the Notices of Termination, Defendants refuse to accept termination and continue to operate as if they were licensed franchisees of Plaintiffs – which they are not. Accordingly, an injunction prohibiting them from continuing their unlicensed use of Plaintiffs' proprietary marks in violation of the Lanham Act is warranted.

Under well established precedent, Plaintiffs are likely to succeed on the merits of their claims. Moreover, Defendants' unlicensed use of Plaintiffs' marks has caused and continues to cause irreparable harm to Plaintiffs. The balance of hardships weighs decisively in favor of Plaintiffs, and sufficiently serious questions going to the merits exist

to make them fair grounds for litigation.

Plaintiffs rely on the accompanying memorandum of law, certifications and exhibits.

A proposed Order is included for the Court's convenience.

Respectfully submitted,

/s/ David E. Worthen

Robert L. Zisk (RZ 1275)
David E. Worthen (DW 8519)
Iris Figueroa Rosario (IR 7902)
GRAY, PLANT, MOOTY, MOOTY
& BENNETT, P.A.
2600 Virginia Avenue, N.W., Suite 1111
Washington, DC 20037
Telephone: (202) 295-2200
Facsimile: (202) 295-2250

Ronald Degen (RD 7808)
Scott Goldfinger (SG 9219)
O'ROURKE & DEGEN, PLLC
225 Broadway, Suite 715
New York, NY 10007
Telephone: (212) 227-4530
Facsimile: (212) 385-9813

Dated: April 1, 2008

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify, under penalty perjury, that on April 1, 2008 I served a copy of Plaintiffs' Motion for a Preliminary Injunction by ECF to each of the following:

Robert B. Davis, Esq.
450 Seventh Avenue, Suite 1304
New York, New York 10123
Telephone: (212) 268-7500

*Counsel for Defendants Inner City Dough, Inc.,
South Bronx Inner City Dough, Inc.,
Triple J 3 Donuts, Inc.,
Urban City Dough, Inc., and Nancy Davis*

Lawrence A. Kushnick, Esq.
445 Broad Hollow Road, Suite 124
Melville, New York 11747
Telephone: (631) 752-7100

*Counsel for Defendants DB Donuts, Inc.,
DB Donuts II, Inc., DB Donuts IV, Inc.,
DB Donuts VI, Inc., and Djenane Bartholomew*

/s/ David E. Worthen

David E. Worthen

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ORDER GRANTING PRELIMINARY INJUNCTION

Upon consideration of Plaintiffs' Motion for a Preliminary Injunction, Defendants' opposition thereto, and the record herein; it is by the Court,

ORDERED, that Plaintiffs' Motion for a Preliminary Injunction be, and the same hereby is GRANTED; and it is further

ORDERED that Defendants and all those acting in concert with them or under their direction or control, are enjoined from using, displaying, or otherwise infringing upon the trademarks, trade name, and trade dress of Plaintiffs; or using or displaying any other name, mark or trade dress that is confusingly similar to the trademarks, trade name, and trade dress of Plaintiffs; or from otherwise committing acts of infringement, unfair competition and dilution against Plaintiffs in violation of the Lanham Act; and it is further

ORDERED that Defendants, and all those acting in concert with them or under their direction or control, are enjoined from utilizing the methods associated with the

names “Dunkin’ Donuts” and “Baskin-Robbins”; and it is further

ORDERED that Defendants and all those acting in concert with them or under their direction or control, cease using, displaying, or otherwise infringing upon the trademarks, trade name, and trade dress of Plaintiffs; or using or displaying any other name, mark or trade dress that is confusingly similar to the trademarks, trade name, and trade dress of Plaintiffs; or from otherwise committing acts of infringement, unfair competition and dilution against Plaintiffs in violation of the Lanham Act; and from utilizing the methods associated with the names “Dunkin’ Donuts” and “Baskin-Robbins” by no later than twelve o’clock p.m. on the ____ day of _____, 2008; and it is further

ORDERED that Defendants shall surrender to any authorized representative of Plaintiffs Defendants’ Dunkin’ Donuts and Baskin-Robbins franchises located at 132 Nassau Street, New York; 130 Church Street, New York, New York; 973 8th Avenue, New York, New York; 360 W. 31st Street, Manhattan, New York; 134-50 Guy R. Brewer Boulevard, Jamaica, New York; 1206 St. Nicholas Avenue, New York, New York; 3414 Jerome Avenue, Bronx, New York; 3455-57 Broadway, New York, New York; and 30 Rockefeller Plaza, New York, New York by no later than twelve o’clock p.m. on the ____ day of _____, 2008; and it is further

ORDERED that Defendants shall file with this Court and serve upon Plaintiffs, within thirty (30) days after service upon Defendants of this injunction, a report in writing and under oath setting forth in detail the manner and form in which the Defendants have complied with the injunction.

SO ORDERED:

New York, NY

_____, 2008

United States District Judge